

## SENATE BILL NO. 143

INTRODUCED BY P. EKEGREN, D. HEDGES, J. KEANE, J. WITT, M. COLE

BY REQUEST OF THE DEPARTMENT OF AGRICULTURE

A BILL FOR AN ACT ENTITLED: "AN ACT INCREASING THE ANNUAL PESTICIDE REGISTRATION FEE TO \$90; PROVIDING FOR AN ANNUAL FEE FOR AN EMERGENCY EXEMPTION REGISTRATION; INCREASING THE FEE FOR A SPECIAL LOCAL NEED REGISTRATION OR FOR AN EXPERIMENTAL-USE PERMIT REGISTRATION TO \$90 AND CHANGING THE FEE TO AN ANNUAL FEE INSTEAD OF A ONE-TIME FEE; REMOVING EXEMPTION OF A REGISTRATION FEE IF THE EXPERIMENTAL USE PERMIT IS FEDERALLY APPROVED; INCREASING THE SPECIAL AGRICULTURAL CHEMICAL GROUND WATER PROTECTION FEE TO \$95; AND AMENDING SECTIONS 80-8-201 AND 80-15-302, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 80-8-201, MCA, is amended to read:

**"80-8-201. Registration.** (1) Each pesticide distributed, sold, or offered for sale within the state or delivered for transportation or transported in intrastate commerce or between points within the state must be registered with the department. The registration must be renewed annually by the manufacturer, formulator, or distributor of the pesticide. The department shall register all federally approved pesticides, and those registered are subject to registration fees and all other provisions of this chapter. All registrations of pesticides expire on December 31 following the date of issuance unless otherwise terminated.

(2) The applicant for registration shall file with the department a statement that includes:

(a) the name and address of the applicant and the name and address of the person whose name will appear on the label, if other than the registrant;

(b) a complete copy of the label of the pesticide, the United States environmental protection agency registration number if the pesticide is registered, and a statement of all claims to be made for it, including directions for use;

(c) the trade and chemical name of the pesticide;

(d) if requested by the department, a full description of tests made and the results upon which

1 the claims are based. In the case of renewal of registration, a statement is required only for information  
2 that is different from that furnished when the pesticide was registered or last reregistered.

3 (3) A pesticide imported into the state that is subject to and has been registered under the  
4 provisions of a federal act providing for the registration of pesticides must be registered in the state.  
5 However, the state may restrict the sale or use and application of the pesticide by type of dealer,  
6 applicator, time, and place and may establish special registrations of pesticides as outlined in 80-8-105(3)  
7 and in subsection (8) of this section. The annual registration fee must also be paid, and registration  
8 information required by the department must be provided.

9 (4) The applicant shall pay an annual fee of ~~\$70~~ \$90 for each pesticide registered. ~~A registration~~  
10 ~~fee is not required to register a federally approved experimental use permit. The applicant shall pay an~~  
11 annual fee of \$90 for:

12 (a) each emergency exemption requested by the state as provided in the Federal Insecticide,  
13 Fungicide, and Rodenticide Act, 7 U.S.C. 136p;

14 (b) a special local need registration, as provided in the Federal Insecticide, Fungicide, and  
15 Rodenticide Act, 7 U.S.C. 136v(c)(1); or

16 (c) for an experimental-use permit registration, as provided in 7 U.S.C. 136c.

17 (5) The department may require the submission of the complete formula and certified analytical  
18 standards of any pesticide. If it appears to the department that the composition of the pesticide warrants  
19 the proposed claims for it and if the pesticide, its labeling, and other material required to be submitted  
20 comply with the requirements of 80-8-202, the department shall register the pesticide.

21 (6) If it does not appear to the department that the pesticide warrants the proposed claims for it  
22 or if the pesticide, its labeling, and other material required to be submitted do not comply with this chapter,  
23 the department shall notify the applicant of the manner in which the pesticide, labeling, or other material  
24 required to be submitted fails to comply with the chapter to provide the applicant an opportunity to make  
25 the necessary corrections. If the applicant does not make the corrections upon receipt of the notice, the  
26 department may refuse to register the pesticide. The department may suspend or cancel the registration  
27 of a pesticide whenever it does not appear that the pesticide or its labeling comply with this chapter or  
28 whenever scientific evidence proves that the pesticide endangers humans or the general environment  
29 afforded protection under 80-8-105(3)(a). When an application for registration is refused or the department  
30 proposes to suspend or cancel a registration, the registrant may pursue administrative remedies under the

1 Montana Administrative Procedure Act and rules of the department.

2 (7) Registration is not required in the case of a pesticide shipped from one plant in the state to  
3 another plant in the state by the same person.

4 (8) (a) The department, the department of public health and human services, and the department  
5 of fish, wildlife, and parks shall review all applications for registration of an experimental-use permit or a  
6 registration for special local needs. ~~The applicant shall pay a one-time fee of \$70 for a special local need~~  
7 ~~or experimental-use permit registration.~~ The departments shall use the same requirements and standards  
8 for reviewing registrations established by the Federal Insecticide, Fungicide, and Rodenticide Act, as  
9 amended, and regulations adopted under the act. The department shall provide the departments of public  
10 health and human services and fish, wildlife, and parks with a complete copy of the application, related  
11 correspondence, and a statement of the department's proposed action on the application. The department,  
12 the department of public health and human services, and the department of fish, wildlife, and parks shall  
13 approve or disapprove the application within 10 days after the receipt of the application. If the department,  
14 the department of public health and human services, and the department of fish, wildlife, and parks are  
15 in agreement with the proposed registration, the department shall issue the registration.

16 (b) The department shall establish a time and place for an interagency conference for the purposes  
17 of resolving the registration of any pesticide or device. If two of the departments approve the proposed  
18 registration, the department shall issue the registration.

19 (c) The registrant applying for registration must be notified as to proposed changes in registration.  
20 If the departments cannot resolve the proposed registration following the interagency conference, the  
21 registrant may request a joint administrative hearing before the departments of agriculture, public health  
22 and human services, and fish, wildlife, and parks.

23 (d) Following the interagency conference and, if requested, the administrative hearing, if the  
24 proposed registration of a pesticide or device has not been resolved, the department of agriculture shall  
25 appoint an advisory council as outlined in 80-8-108 to resolve by majority vote the registration of any  
26 pesticide. The advisory council's recommendations on the registration must be accepted by the  
27 departments and implemented by the department of agriculture.

28 (9) (a) Pesticides registered under any federal law when canceled for sale and use in total or in  
29 part by a federal agency responsible for registration are considered canceled in total or in part for sale and  
30 use in Montana. The cancellation is effective on the final date of sale or use allowed under the federal law

1 and rules or orders of the federal agency. Except as provided in subsection (9)(b), if the federal cancellation  
2 allows existing stock to be used past the final date of cancellation, the sale or use in this state may not  
3 exceed 2 years. The department shall provide technical assistance to any person in possession of the  
4 products to ensure their proper disposal, relabeling, or removal.

5 (b) Pesticide products canceled under the Federal Insecticide, Fungicide, and Rodenticide Act, 7  
6 U.S.C. 136a-1(i)(5) may be sold and used according to environmental protection agency labeling  
7 requirements or other requirements for a period not to exceed 6 years from the date that distribution from  
8 the registrant, manufacturer, formulator, or distributor is terminated."

9  
10 **Section 2.** Section 80-15-302, MCA, is amended to read:

11 **"80-15-302. Special funding.** (1) A fee of ~~\$80~~ \$95 is assessed for the registration of pesticides  
12 in addition to the fee imposed by 80-8-201(4).

13 (2) The money collected from the registration fee established by subsection (1) must be deposited  
14 in the state special revenue fund as follows:

15 (a) Each of the following state agencies must be credited \$15,000 for purposes of administering  
16 or assisting the department in administering this chapter:

17 (i) department of environmental quality; and

18 (ii) Montana state university-Bozeman extension service.

19 (b) The department must be credited with the remainder of the registration fee money to use in  
20 administering this chapter.

21 (3) A fee of \$10 is assessed for the registration of fertilizers in addition to the fee imposed by  
22 80-10-201(1). The additional fee must be used for the ground water protection responsibilities of the  
23 department relating to fertilizers. Revenues collected from this fee must be credited to the commercial  
24 fertilizer agricultural chemical ground water account within the state special revenue fund for the  
25 administration of this chapter.

26 (4) The department may direct the board of investments to invest the portion of the money  
27 collected under this section that is credited to the department pursuant to the provisions of 17-6-201. The  
28 income from the investments must be deposited in the state special revenue fund and credited to the  
29 department."

1        NEW SECTION.    **Section 3.    Saving clause.** [This act] does not affect rights and duties that  
2    matured, penalties that were incurred, or proceedings that were begun before [the effective date of this  
3    act].

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